Republic of the Philippines
**SUPREME COURT**
Manila

SECOND DIVISION

**G.R. No. L-27796 March 25, 1976**

**ST. PAUL FIRE & MARINE INSURANCE CO.,** plaintiff-appellant,
vs.
**MACONDRAY & CO., INC., BARBER STEAMSHIP LINES, INC., WILHELM WILHELMSEN MANILA PORT SERVICE and/or MANILA RAILROAD COMPANY,** defendants-appellees.

*Chuidian Law Office for appellant.*

*Salcedo, Del Rosario Bito & Mesa for appellee Macondray & Co., Inc., Barber Steamship Lines, Inc. and Wilhelm Wilhelmsen*

*Macaranas & Abrenica for appellee Manila Port Service and/or Manila Railroad Company.*

**ANTONIO, *J.:***

Certified to this Court by the Court of Appeals in its Resolution of May 8, 1967, [1] on the ground that the appeal involves purely questions of law, thus: (a) whether or not, in case of loss or damage, the liability of the carrier to the consignee is limited to the C.I.F. value of the goods which were lost or damaged, and (b) whether the insurer who has paid the claim in dollars to the consignee should be reimbursed in its peso equivalent on the date of discharge of the cargo or on the date of the decision.

According to the records, on June 29, 1960, Winthrop Products, Inc., of New York, New York, U.S.A., shipped aboard the SS "Tai Ping", owned and operated by Wilhelm Wilhelmsen 218 cartons and drums of drugs and medicine, with the freight prepaid, which were consigned to Winthrop-Stearns Inc., Manila, Philippines. Barber Steamship Lines, Inc., agent of Wilhelm Wilhelmsen issued Bill of Lading No. 34, in the name of Winthrop Products, Inc. as shipper, with arrival notice in Manila to consignee Winthrop-Stearns, Inc., Manila, Philippines. The shipment was insured by the shipper against loss and/or damage with the St. Paul Fire & Marine Insurance Company under its insurance Special Policy No. OC-173766 dated June 23, 1960 (Exhibit "S").

On August 7, 1960, the SS "Tai Ping" arrived at the Port of Manila and discharged its aforesaid shipment into the custody of Manila Port Service, the arrastre contractor for the Port of Manila. The said shipment was discharged complete and in good order with the exception of one (1) drum and several cartons which were in bad order condition. Because consignee failed to receive the whole shipment and as several cartons of medicine were received in bad order condition, the consignee filed the corresponding claim in the amount of Fl,109.67 representing the C.I.F. value of the damaged drum and cartons of medicine with the carrier, herein defendants- appellees (Exhibits "G" and "H") and the Manila Port Service (Exhibits "I" & "J" However, both refused to pay such claim. consequently, the consignee filed its claim with the insurer, St. Paul Fire & Marine insurance Co. (Exhibit "N"), and the insurance company, on the basis of such claim, paid to the consignee the insured value of the lost and damaged goods, including other expenses in connection therewith, in the total amount of $1,134.46 U.S. currency (Exhibit "U").

On August 5, 1961, as subrogee of the rights of the shipper and/or consignee, the insurer, St. Paul Fire & Marine Insurance Co., instituted with the Court of First Instance of Manila the present action [2] against the defendants for the recovery of said amount of $1,134.46, plus costs.

On August 23, 1961, the defendants Manila Port Service and Manila Railroad Company resisted the action, contending, among others, that the whole cargo was delivered to the consignee in the same condition in which it was received from the carrying vessel; that their rights, duties and obligations as arrastre contractor at the Port of Manila are governed by and subject to the terms, conditions and limitations contained in the Management Contract between the Bureau of Customs and Manila Port Service, and their liability is limited to the invoice value of the goods, but in no case more than P500.00 per package, pursuant to paragraph 15 of the said Management Contract; and that they are not the agents of the carrying vessel in the receipt and delivery of cargoes in the Port of Manila.

On September 7, 1961, the defendants Macondray & Co., Inc., Barber Steamship Lines, Inc. and Wilhelm Wilhelmsen also contested the claim alleging, among others, that the carrier's liability for the shipment ceased upon discharge thereof from the ship's tackle; that they and their co-defendant Manila Port Service are not the agents of the vessel; that the said 218 packages were discharged from the vessel SS "Tai Ping" into the custody of defendant Manila Port Service as operator of the arrastre service for the Port of Manila; that if any damage was sustained by the shipment while it was under the control of the vessel, such damage was caused by insufficiency of packing, *force majeure* and/or perils of the sea; and that they, in good faith and for the purpose only of avoiding litigation without admitting liability to the consignee, offered to settle the latter's claim in full by paying the C.I.F. value of 27 lbs. caramel 4.13 kilos methyl salicylate and 12 pieces pharmaceutical vials of the shipment, but their offer was declined by the consignee and/or the plaintiff.

After due trial, the lower court, on March 10, 1965 rendered judgment ordering defendants Macondray & Co., Inc., Barber Steamship Lines, Inc. and Wilhelm Wilhelmsen to pay to the plaintiff, jointly and severally, the sum of P300.00, with legal interest

thereon from the filing of the complaint until fully paid, and defendants Manila Railroad Company and Manila Port Service to pay to plaintiff, jointly and severally, the sum of P809.67, with legal interest thereon from the filing of the complaint until fully paid, the costs to be borne by all the said defendants. [3]

On April 12, 1965, plaintiff, contending that it should recover the amount of $1,134.46, or its equivalent in pesos at the rate of P3.90, instead of P2.00, for every US$1.00, filed a motion for reconsideration, but this was denied by the lower court on May 5, 1965. Hence, the present appeal.

Plaintiff-appellant argues that, as subrogee of the consignee, it should be entitled to recover from the defendants-appellees the amount of $1,134.46 which it actually paid to the consignee (Exhibits "N" & "U") and which represents the value of the lost and damaged shipment as well as other legitimate expenses such as the duties and cost of survey of said shipment, and that the exchange rate on the date of the judgment, which was P3.90 for every US$1.00, should have been applied by the lower court.

Defendants-appellees countered that their liability is limited to the C.I.F. value of the goods, pursuant to contract of sea carriage embodied in the bill of lading that the consignee's (Winthrop-Stearns Inc.) claim against the carrier (Macondray & Co., Inc., Barber Steamship Lines, Inc., Wilhelm Wilhelmsen and the arrastre operators (Manila Port Service and Manila Railroad Company) was only for the sum of Pl,109.67 (Exhibits "G", "H", "I" & "J"), representing the C.I.F. value of the loss and damage sustained by the shipment which was the amount awarded by the lower court to the plaintiff-appellant; [4] defendants appellees are not insurers of the goods and as such they should not be made to pay the insured value therefor; the obligation of the defendants-appellees was established as of the date of discharge, hence the rate of exchange should be based on the rate existing on that date, i.e., August 7, 1960, [5] and not the value of the currency at the time the lower court rendered its decision on March 10, 1965.

The appeal is without merit.

The purpose of the bill of lading is to provide for the rights and liabilities of the parties in reference to the contract to carry. [6] The stipulation in the bill of lading limiting the common carrier's liability to the value of the goods appearing in the bill, unless the shipper or owner declares a greater value, is valid and binding. [7] This limitation of the carrier's liability is sanctioned by the freedom of the contracting parties to establish such stipulations, clauses, terms, or conditions as they may deem convenient, provided they are not contrary to law, morals, good customs and public policy. [8] A stipulation fixing or limiting the sum that may be recovered from the carrier on the loss or deterioration of the goods is valid, provided it is (a) reasonable and just under the circumstances, [9] and (b) has been fairly and freely agreed upon. [10] In the case at bar, the liabilities of the defendants- appellees with respect to the lost or damaged shipments are expressly limited to the C.I.F. value of the goods as per contract of sea carriage embodied in the bill of lading, which reads:

> Whenever the value of the goods is less than $500 per package or other freight unit, their value in the calculation and adjustment of claims for which the Carrier may be liable shall for the purpose of avoiding uncertainties and difficulties in fixing value be deemed to be the invoice value, plus frieght and insurance if paid, irrespective of whether any other value is greater or less.
>
> *The limitation of liability and other provisions herein shall inure not only to the benefit of the carrier, its agents, servants and employees, but also to the benefit of any independent contractor performing services* including stevedoring in connection with the goods covered hereunder. (Paragraph 17, emphasis supplied.)

It is not pretended that those conditions are unreasonable or were not freely and fairly agreed upon. The shipper and consignee are, therefore, bound by such stipulations since it is expressly stated in the bill of lading that in "accepting this Bill of Lading, the shipper, owner and consignee of the goods, and the holder of the Bill of Lading agree to be bound by all its stipulations, exceptions and conditions, whether written, stamped or printed, as fully as if they were all signed by such shipper, owner, consignee or holder. It is obviously for this reason that the consignee filed its claim against the defendants-appellees on the basis of the C.I.F. value of the lost or damaged goods in the aggregate amount of Pl,109.67 (Exhibits "G", "H", "I", and "J"). [11]

The plaintiff-appellant, as insurer, after paying the claim of the insured for damages under the insurance, is subrogated merely to the rights of the assured. As subrogee, it can recover only the amount that is recoverable by the latter. Since the right of the assured, in case of loss or damage to the goods, is limited or restricted by the provisions in the bill of lading, a suit by the insurer as subrogee necessarily is subject to like limitations and restrictions.

> The insurer after paying the claim of the insured for damages under the insurance is subrogated merely to the rights of the insured and therefore can necessarily *recover only that to what was recoverable by the insured.* [12]
>
> Upon payment for a total loss of goods insured, the insurance is only subrogated to such rights of action as the assured has against 3rd persons who caused or are responsible for the loss. The right of action against another person, the equitable interest in which passes to the insurer, being only that which the assured has, it follows that if the assured has no such right of action, none passes to the insurer, and *if the assured's right of action is limited or restricted by lawful contract between him and the person sought to be made responsible for the loss, a suit by the insurer, in the Tight of the assured, is subject to like limitations or restrictions.* [13]

Equally untenable is the contention of the plaintiff-appellant that because of extraordinary inflation, it should be reimbursed for its dollar payments at the rate of — exchange on the date of the judgment and not on the date of the loss or damage. The obligation of the carrier to pay for the damage commenced on the date it failed to deliver the shipment in good condition to the consignee.

The C.I.F. Manila value of the goods which were lost or damaged, according to the claim of the consignee dated September 26, 1960 is $226.37 (for the pilferage, Exhibit "G") and $324.33 (shortlanded, Exhibit "H") or P456.14 and P653.53, respectively, in Philippine Currency. The peso equivalent was based by the consignee on the exchange rate of P2.015 to $1.00 which was the rate existing at that time. We find, therefore, that the trial court committed no error in adopting the aforesaid rate of exchange.

WHEREFORE, the appealed decision is hereby affirmed, with costs against the plaintiff-appellant.

*Barredo, Aquino, Concepcion, Jr. and and Martin, JJ., concur.*

*Justice Enrique M. Fernando (Chairman), is on leave.*

*Justice Ruperto G. Martin was designated to sit in the Second Division.*

**Footnotes**

1 CA-G.R. No. 36295-R.

2 Civil Case No. 47720.

3 Record on Appeal, p. 29.

4 Decision, pp. 22-23, Record on Appeal.

5 Complaint, par. 8, p. 4, Record on Appeal.

6 The Roanoke 59 F. 161, 165.

7 Article 1749, Civil Code.

8 Article 1306, *Ibid.; H. E. Heacock Co. v. Macondray & Co.,* 42 Phil. 205.

9 Articles 1744, No. 3 and 1750, Ibid.

10 See Articles 1744 to 1749, *Ibid*.

11 Said amount of P1,109.67 is itemized as follows:

STATEMENT OF CLAIM

| Marks & Nos | Pkgs | Description of Merchandise | Unit | Amount |
|---|---|---|---|---|
| Winthrop-Stearns | PILFERAGE | | | |
| Inc. Manila | (Exhibits "G" & "I") | | | |
| Made in USA | | | | |
| no. 114 | 1 S/Drum | 540 lbs. CARAMEL Empty | $0.26/ no. | $140.40 |
| no. 130/1 | 2 Ctns. | 45.36 Kls. MAGNESIUM | 1.32/K | 59.88 |
| | | STEARATE | | |
| no. 200 | 1 Ctn. | 4.13") METHYL SALICYLATE | | |
| no. 210 | 1" | 1.43") 15.14K | 1.70/K | 25.74 |
| no. 191 | 1" | 9.58") | | |
| no. 249 | 1" | 12 Pcs. PHARMACEUTICAL | | |
| | | VIALS 5 cc | 4.20/Gr | .35 |
| | 6 Pkgs. | C.I.F. Manila | | $226.37 |

| | | | | |
|---|---|---|---|---|
| | | at 201.50 Phil. Currency | | P456.14 |
| | | SHORT-LANDED | | |
| | | (Exhibits "H" & "J") | | |
| no: 102 | 1 Ctn. | 432 Bots. AFAXIN 25MU 100's | $1.50/ | $648.00 |
| | | | Bot. | |
| | | Less Spec. Prom. Discount | | 323.67 |
| | | C.I.F. Manila | | $324.33 |
| | | at 201.50 Phil. Currency | | P653.53 |

12 Rizal Surety & Insurance Co. v. Manila Railroad Co., 23 SCRA 205. Emphasis supplied.

13 Phoenix Insurance Co. of Brooklyn v. Eric and Western Transportation Co., 29 U.S. L. ed., 873. Emphasis supplied.